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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/847,479	05/02/2001	Jeffrey J. Brown	FIS920010077US1	6231
21254	7590	08/24/2004	EXAMINER	
MCGINN & GIBB, PLLC 8321 OLD COURTHOUSE ROAD SUITE 200 VIENNA, VA 22182-3817				BARRECA, NICOLE M
		ART UNIT		PAPER NUMBER
		1756		

DATE MAILED: 08/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/847,479

Applicant(s)

BROWN ET AL.

Examiner

Nicole M Barreca

Art Unit

1756

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 13 July 2004.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application (PTO-152)

6) Other: \_\_\_\_\_.

## DETAILED ACTION

1. Claims 1-12 are pending in this application.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 1, 7, 11 and 12 recite "a critical dimension that is below 100 nm ". This claim does not meet the description requirement because the phrase "below" has no lower limit and causes the claim to read outside of the disclosed range. While the claims are supported for some dimensions less than 100 nm, such as 75 nm (p.10 of specification), the claims are not supported for all critical dimensions less than 100 nm. See MPEP 2163.05, III.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the one layer of or deposited on the wafer etched with the second set of conditions in claim 4 is the same layer as the first

mask etched with the first set of conditions in claim 1, or if it is a different layer underlying the first mask.

***Allowable Subject Matter***

6. Claims 1-12 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1<sup>st</sup> and 2nd paragraph, set forth in this Office action.
7. The following is a statement of reasons for the indication of allowable subject matter: the prior art only teaches resist trimming processes including a tuning parameter to independently control the line width variation tolerance of isolated features relative to nested features, or including the specific oxygen/nitrogen plasma etching conditions as claimed, wherein the target critical dimension is greater than 100 nm.

***Response to Arguments***

8. Applicant's arguments filed 7/2/04 regarding the 35 USC 112 rejections have been fully considered but they are not persuasive. The applicant argues that the original specification made no attempt to establish a lower limit to the range and that they do not now, nor did they at the time of filing, know the lower limit of this range. It is therefore unclear as to how the applicant can claim to have possession for this entire range of dimensions, including all dimensions below 100 nm, when they have admitted on the record that they do not know the lower limit. The applicant argues that the present invention has been demonstrated down to 30 nm and 40 nm. However as noted previously the applicant's specification has no disclosure to these limits, which only exemplifies a lower limit of 75 nm. The applicant's claims as currently written seek protection for all critical dimensions less than 100 nm, including dimensions well below

the "demonstrated" lower limit of 30 nm. It is unclear how the applicant's can claim to have possession of and seek protection for all other dimensions below 100 nm, including dimensions well below 30 nm, when they themselves admit that they have not demonstrated a critical dimension below 30 nm.

9. The applicant argues that the above amendment for claim 4 addresses the 35 USC 112, second paragraph rejection. However claim 4 has not been amended in this or any other response.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicole M Barreca whose telephone number is 571-272-1379. The examiner can normally be reached on Monday-Thursday (9AM-7PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Huff can be reached on 571-272-1385. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nmb M7  
8/18/04



MARK F. HUFF  
SUPERVISORY PATENT EXAMINER  
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